

# CITY COUNCIL AGENDA

**NOVEMBER 4, 2014**

PETE CONSTANT  
ASH KALRA  
SAM LICCARDO  
KANSEN CHU  
XAVIER E. CAMPOS

DISTRICT 1  
DISTRICT 2  
DISTRICT 3  
DISTRICT 4  
DISTRICT 5

CHUCK REED MAYOR

PIERLUIGI OLIVERIO  
MADISON NGUYEN, VICE MAYOR  
ROSE HERRERA  
DONALD ROCHA  
JOHNNY KHAMIS

DISTRICT 6  
DISTRICT 7  
DISTRICT 8  
DISTRICT 9  
DISTRICT 10

*The City of San José is committed to open and honest government and strives to consistently meet the community's expectations by providing excellent service, in a positive and timely manner, and in the full view of the public.*

Welcome to the San José City Council meeting!

This Agenda contains both a Consent Calendar section for routine business items that require Council approval, and general business items arranged to correspond with San José's City Service Areas (CSAs). City Service Areas represent the policy-making level for strategic planning, policy setting, and investment decisions in the critical functions the City provides to the community. They are:

- **Strategic Support Services** — The internal functions that enable the CSAs to provide direct services to the community in an effective and efficient manner.
- **Community & Economic Development** — Manage the growth and change of the community in order to create and preserve healthy neighborhoods and ensure a diverse range of employment and housing opportunities.
- **Neighborhood Services** — Serve, foster, and strengthen community by providing access to lifelong learning and opportunities to enjoy life.
- **Transportation & Aviation Services** — A safe and efficient transportation system that contributes to the livability and economic health of the City; and provide for the air transportation needs of the community and the region at levels that is acceptable to the community.
- **Environment and Utility Services** — Manage environmental services and utility systems to ensure a sustainable environment for the community.
- **Public Safety Services** — Commitment to excellence in public safety by investing in neighborhood partnerships as well as prevention, enforcement, and emergency preparedness services.

You may speak to the City Council about any discussion item that is on the agenda, and you may also speak during Open Forum on items that are not on the agenda and are within the subject matter jurisdiction of the City Council or Redevelopment Agency Board. If you wish to speak to the City Council, please refer to the following guidelines:

- **Fill out a Yellow Speaker's Card and submit it to the City Clerk seated at the front table. Do this before the meeting or before the item is heard.** This will ensure that your name is called for the item(s) that you wish to address, and it will help ensure the meeting runs smoothly for all participants.
- When the Council reaches your item on the agenda, Mayor Reed will open the public hearing and call your name. Please address the Council from the podium, which is located to the left of the City Clerk's table.
- Each speaker generally has two minutes to speak per item. The amount of time allotted to speakers may vary at the Mayor's discretion, depending on the number of speakers or the length of the agenda.
- To assist you in tracking your speaking time, there is a display on the podium. The green light turns on when you begin speaking; the yellow light turns on when you have 30 seconds left; and the red light turns on when your speaking time is up.

Please be advised that, by law, the City Council is unable to discuss or take action on issues presented during Open Forum. According to State Law (the Brown Act) items must first be noticed on the agenda before any discussion or action.

The San José City Council meets every Tuesday at 1:30 p.m. and Tuesday at 7 p.m. as needed, unless otherwise noted. If you have any questions, please direct them to the City Clerk's staff seated at the tables just below the dais. Thank you for taking the time to attend today's meeting. We look forward to seeing you at future meetings.

Agendas, Staff Reports and some associated documents for City Council items may be viewed on the Internet at <http://www.sanjoseca.gov/index.aspx?NID=3549>. Council Meetings are televised live and rebroadcast on Channel 26.

All public records relating to an open session item on this agenda, which are not exempt from disclosure pursuant to the California Public Records Act, that are distributed to a majority of the legislative body will be available for public inspection at the Office of the City Clerk at San José City Hall, 200 E. Santa Clara Street, Council Wing, 2<sup>nd</sup> Floor, San José, CA 95113 at the same time that the public records are distributed or made available to the legislative body. Any draft contracts, ordinances and resolutions posted on the Internet site or distributed in advance of the Council meeting may not be the final documents approved by the City Council. Contact the Office of the City Clerk at (408) 535-1260 or [CityClerk@sanjoseca.gov](mailto:CityClerk@sanjoseca.gov) for the final document.

To request an accommodation or alternative format under the Americans with Disabilities Act for City-sponsored meetings, events or printed materials, please call (408) 535-1260 or (408) 294-9337 as soon as possible, but at least three business days before the meeting.

On occasion the City Council may consider agenda items out of order.

- **Call to Order and Roll Call**
  - 9:30 a.m. - Closed Session, Call to Order in Council Chambers
  - Open Session, Labor Negotiations Update (See Item 3.2)
  - Adjourn to Closed Session in Council Chambers Conference Room, W133
  - See Separate Agenda
  - 1:30 p.m. - Regular Session, Council Chambers, City Hall
- **Invocation (District 10)**
  - President Scott Jensen, The Church of Jesus Christ of Latter-Day Saint
- **Pledge of Allegiance**
- **Orders of the Day**
  - Items recommended to be added, dropped, or deferred are usually approved under Orders of the Day unless the Council directs otherwise.
- **Closed Session Report**

# 1. CEREMONIAL ITEMS

---

- 1.1 Presentation of a proclamation declaring November 11, 2014 as Veterans Day in the City of San José. (Herrera/Mayor)
- 1.2 Presentation of a Commendation to Charles Fowler for his achievement in receiving "Teacher of the Year" Award from Santa Clara County. (Nguyen)
- 1.3 Presentation of a proclamation in support of the Shop San José Campaign to Women Impacting Public Policy and representatives of San José's neighborhood business associations declaring November 29, 2014 as "Small Business Saturday" in the City of San José. (Herrera/Economic Development)

# 2. CONSENT CALENDAR

---

**Notice to the public:** There will be no separate discussion of Consent Calendar items as they are considered to be routine by the City Council and will be adopted by one motion. If a member of the City Council, staff, or public requests discussion on a particular item, that item may be removed from the Consent Calendar and considered separately.

## 2.1 Approval of Minutes.

## 2.2 Final Adoption of Ordinances.

**Recommendation:** Final adoption of ordinances.

- (a) ORD. NO. 29499 – An ordinance of the City of San José: (1) Prezoning certain real property of approximately 1.02 acres situated approximately 400 feet south of the southern terminus of Pullman Way from Santa Clara County to the IP Industrial Park Zoning District; and (2) Prezoning certain real property of approximately 8,6 acres situated approximately 320 feet south of the southern terminus of Pullman Way from Santa Clara County to the PQP Public/Quasi-Public Zoning District. C14-046
- (b) ORD. NO. 29500 – An ordinance of the City of San José: (1) Prezoning certain real property of approximately 2.1 acres situated approximately 250 feet north east of Canoas Garden Avenue from Santa Clara County to the OS Open Space Zoning District; and (2) Prezoning certain real property of approximately 10.3 acres situated east of Canoas Garden Avenue, north and south of Millpond Drive from Santa Clara county to the PQP Public/Quasi-public Zoning District. C14-047
- (c) ORD. NO. 29501 – Prezoning certain real property of approximately 2.0 acres situated northeast of St. Florian Way and Adeline Avenue from Santa Clara County to the PQP Public/Quasi-Public Zoning District. C14-048

*(Item continued on the next page)*

## 2. CONSENT CALENDAR

---

### 2.2 Final Adoption of Ordinances. (Cont'd.)

**Recommendation:**

- (d) ORD. NO. 29502 – Rezoning certain real property of approximately 10.9 acres situated at the terminus of Carol Drive to the PQP Public/Quasi-Public Zoning District. C14-049
- (e) ORD. NO. 29503 – Rezoning and rezoning certain real property situated on the south side of The Union Pacific Railroad Tracks, west of Hillsdale Avenue, northerly of Adeline Avenue and Altino Blvd. and Easterly Of Highway 87 at the terminus of Carol Drive to A(PD) Planned Development Zoning District. PDC13-009
- (f) ORD. NO. 29504 – Rezoning certain real property of approximately 0.87 acre on the southwest side of Dove Hill Road, approximately 1,370 feet southerly of Yerba Buena Avenue (0 Dove Hill Road) from the A Agricultural Zoning District to the R-1-2 Single-Family Residence Zoning District. C14-031
- (g) ORD. NO. 29505 – Rezoning certain real property of approximately 4.64 acres situated on the east side of Stone Avenue approximately 650 feet northerly of Cimino Street (1850 Stone Avenue) from the IP Industrial Park Zoning District to the HI Heavy Industrial Zoning District. C14-037
- (h) ORD. NO. 29506 – Rezoning certain real property of approximately 0.20 acre situated on the southeast corner of South Winchester Boulevard and Williams Road from the CO Commercial Office Zoning District to the CP Commercial Pedestrian Zoning District. C14-043

### 2.3 Approval of Council Committee Reports.

**Recommendation:** Approval of Council Committee Reports.

- (a) [Neighborhood Services and Education Committee Report of October 9, 2014.](#) (Nguyen)
- (b) [Rules and Open Government Committee Report of October 15, 2014.](#) (Mayor)
- (c) [Public Safety, Finance, and Strategic Support Committee Report of October 16, 2014.](#) (Constant)

### 2.4 Mayor and Council Excused Absence Requests.

### 2.5 City Council Travel Reports.

### 2.6 Report from the Council Liaison to the Retirement Boards.

## 2. CONSENT CALENDAR

---

### 2.7 Youth Commission Appointment.

**Recommendation:** Appoint Theresa Do to the District 7 Seat on the Youth Commission to an unexpired term ending May 31, 2015. (City Clerk)

### 2.8 Library and Early Education Commission Appointment to Special Eligibility to Special Eligibility Seat.

**Recommendation:** Approve the following appointment to the Special Eligibility Seats on the Library and Early Education Commission:

- (a) Kayla Thuy-Khanh Tran to a term ending June 30, 2016.  
(City Clerk)

### 2.9 Actions Related to the Acceptance of Vice Mayor Nguyen's Surplus Campaign Funds.

**Recommendation:** Adopt the following Appropriation Ordinance and Funding Source Resolution Amendments in the General Fund to:

- (a) Increase the estimate for Other Revenue by \$7,347; and
  - (b) Increase the appropriation to Council District #07 (July – December) by \$7,347.
- CEQA: Not a Project, File No. PP10-067(b), Appropriation Ordinance. (City Clerk/City Manager)

### 2.10 Set a Public Hearing on the Cost of Sidewalk Repairs for December 16, 2014.

**Recommendation:** Adopt a [resolution](#) setting a Public Hearing on Tuesday, December 16, 2014, at 1:30 p.m. for the approval of the report from the Director of Finance for the cost of sidewalk repairs. CEQA: Not a Project, File No. PP10-066(e), Services that involve no physical changes to the environment. (Finance)

### 2.11 Set a Public Hearing on the Cost of Corrective Actions for Tree Violations for December 16, 2014.

**Recommendation:** Adopt a [resolution](#) setting a Public Hearing on Tuesday, December 16, 2014, at 1:30 p.m. for the approval of the report from the Director of Finance for the cost of corrective actions for tree violations. CEQA: Not a Project, File No. PP10-066(e), Services that involve no physical changes to the environment. (Finance)

## 2. CONSENT CALENDAR

---

### 2.12 [Amendment to the Consultant Agreement for the Transportation Incident Management Center Facility Improvement Project.](#)

**Recommendation:**

- (a) Approve a [Third Amendment](#) to the agreement for consultant services with IBI Group for the Transportation Incident Management Center Facility Improvement project to increase the total compensation from \$485,000 to \$535,000 and to extend the term of the agreement to June 30, 2015.
- (b) Reduce the project construction contingency amount from the Council approved 15% to 7½%.

CEQA: Negative Declaration, Exempt, File No. PP09-108. (Public Works/Transportation)

## 3. STRATEGIC SUPPORT SERVICES

---

### 3.1 Report of the City Manager, Edward Shikada (Verbal Report).

### 3.2 Labor Negotiations Update.

**Recommendation:** Accept Labor Negotiations Update.  
**TO BE HEARD AT 9:30 A.M.**

### 3.3 [Actions Related to an Initiative Ordinance Amending Title 6 and Title 20 of the San José Municipal Code Regarding Medical Marijuana Collectives.](#)

**Recommendation:** Approve one of the following options:

- (a) Adopt the proposed initiative as submitted; or
- (b) Adopt a resolution calling an election to submit the initiative to the voters at a Special Municipal Election on a date to be decided; or
- (c) Adopt a resolution calling an election to submit the initiative to the voters at the next General Election on Tuesday, June 7, 2016.

CEQA: Not a Project, File No. PP10-069, Staff reports and informational memos. (City Manager/City Attorney/City Clerk)

### 3.4 [2013-14 Annual Performance Audit of Team San José's Management of the City's Convention and Cultural Facilities.](#)

**Recommendation:** As recommended by the Public Safety, Finance, and Strategic Support Committee on October 16, 2014, accept the 2013 – 14 Annual Performance Audit of Team San José's Management of the City's Convention and Cultural Facilities. (City Auditor)  
[Public Safety, Finance, and Strategic Support Committee referral 10/16/14 – Item D(4)]

## 4. COMMUNITY & ECONOMIC DEVELOPMENT

---

### 4.1 Extension of North San José Development Incentive.

**Recommendation:** As recommended by the Community and Economic Development Committee on September 22, 2014, adopt a resolution amending the North San José Area Development Policy to:

- (a) Extend the North San José Traffic Impact Fee Incentive deadline for Tier 2 projects (build to suit projects of over one million square feet) to obtain building permits for one year to December 31, 2017; and to receive a certificate of occupancy for one year to December 31, 2017;
- (b) Limit the amount of development capacity in the incentive to a total of four million square feet across both Tiers; and
- (c) Designate the point at which the allocation of the incentive occurs is at the time of payment of the Traffic Impact Fee, or upon execution of an Industrial Project Completion Agreement upon approval of a valid development permit.

CEQA: North San José Environmental Impact Report, Resolution No. 72768 and Addenda thereto. (Economic Development /Planning, Building and Code Enforcement/Transportation)

[Community and Economic Development Committee referral 9/22/14 – Item D(2)(b)]  
(Deferred from 10/21/14 – Item 4.2)

**DEFERRED TO 11/18/14 PER ADMINISTRATION**

### 4.2 Potential Sale of Real Property in the Diridon Area.

Memo from Mayor Reed

**Recommendation:** Approve an Option and Purchase and Sale Agreement and Escrow Instructions for the potential sale of certain real property located at 105 South Montgomery, 150 South Montgomery, 510 West San Fernando, 102 South Montgomery, 115 South Autumn, and 645 Park Avenue to the Athletics Investment Group, LLC.

CEQA: Not a Project. (City Attorney)

### 4.3 Actions Related to the Police Administration and Communication Buildings Chiller Replacements Project.

**Recommendation:** Adopt a resolution authorizing the Director of Public Works to:

- (a) Award a design-build construction contract for the 7458-Police Administration and Communication Buildings Chiller Replacements Project to the lowest responsive and responsible bidder in an amount not to exceed \$1,770,000 and to approve a fifteen percent contingency;
- (b) Hear and decide any timely bid protest(s), to make the City's final determination as to the lowest responsive bidder that is responsible, or to reject all bids and re-bid the project; and
- (c) Execute change orders in excess of \$100,000 within the contingency amount.

CEQA: Exempt, File No. PP14-068. (Public Works)



## 5. NEIGHBORHOOD SERVICES

---

### 5.1 [Actions Related to the Three Creeks Trail \(Western Alignment\) Master Plan.](#)

**Recommendation:**

- (a) Adopt a [resolution](#) finding the Initial Study and Mitigated Negative Declaration for the Three Creeks Trail (Western Alignment) Master Plan from Lonus Street to the future Guadalupe River Trail is complete and was prepared in compliance with the California Environmental Quality Act, and incorporating environmental mitigation measures as set forth in the Mitigation Monitoring and Reporting program for the project; and
- (b) Approve the Three Creeks Trail (Western Alignment) Master Plan from Lonus Street to the future Guadalupe River Trail.

CEQA: Mitigated Negative Declaration, File No. PP14-012. Council District 6. (Public Works/Parks, Recreation and Neighborhood Services)

## 6. TRANSPORTATION & AVIATION SERVICES

---

## 7. ENVIRONMENTAL & UTILITY SERVICES

---

## 8. PUBLIC SAFETY SERVICES

---

### 8.1 [Amendment to the Firefighter Breathing Air Replenishing System Ordinance.](#)

**Recommendation:** Approve an [ordinance](#) amending Part 6 of Chapter 17.12 of Title 17 of the San José Municipal Code to add a new section 17.12.640 establishing Firefighter Breathing Air Replenishing System requirements in any of the following structures: buildings containing floors which are used for human occupancy and located more than 75 feet above the lowest level of the fire department vehicular or personnel access, whichever access is more restrictive as determined by the fire Chief; buildings with two or more stories underground; tunnels over 500 feet in length; and, buildings where the fire apparatus access point is located more than 150 feet from the nearest entrance to the building. CEQA: Exempt, under the provisions of the California Environmental Quality Act of 1970, as amended, 14 California Code of Regulations Section 15061(b)(3) and Title 21 of the San José Municipal Code. (Fire)  
(Deferred from 9/30/14 – Item 8.1)

## **9. REDEVELOPMENT – SUCCESSOR AGENCY**

---

- **Open Forum**

*Members of the Public are invited to speak on any item that does not appear on today's Agenda and that is within the subject matter jurisdiction of the City Council.*

- **Adjournment**

## **CITY OF SAN JOSE CODE OF CONDUCT FOR PUBLIC MEETINGS IN THE COUNCIL CHAMBERS AND COMMITTEE ROOMS**

The Code of Conduct is intended to promote open meetings that welcome debate of public policy issues being discussed by the City Council, their Committees, and City Boards and Commissions in an atmosphere of fairness, courtesy, and respect for differing points of view.

### **1. Public Meeting Decorum:**

- a) Persons in the audience will refrain from behavior which will disrupt the public meeting. This will include making loud noises, clapping, shouting, booing, hissing or engaging in any other activity in a manner that disturbs, disrupts or impedes the orderly conduct of the meeting.
- b) Persons in the audience will refrain from creating, provoking or participating in any type of disturbance involving unwelcome physical contact.
- c) Persons in the audience will refrain from using cellular phones and/or pagers while the meeting is in session.
- d) Appropriate attire, including shoes and shirts are required in the Council Chambers and Committee Rooms at all times.
- e) Persons in the audience will not place their feet on the seats in front of them.
- f) No food, drink (other than bottled water with a cap), or chewing gum will be allowed in the Council Chambers and Committee Rooms, except as otherwise pre-approved by City staff.
- g) All persons entering the Council Chambers and Committee Rooms, including their bags, purses, briefcases and similar belongings, may be subject to search for weapons and other dangerous materials.

### **2. Signs, Objects or Symbolic Material:**

- a) Objects and symbolic materials, such as signs or banners, will be allowed in the Council Chambers and Committee Rooms, with the following restrictions:
  - No objects will be larger than 2 feet by 3 feet.
  - No sticks, posts, poles or other such items will be attached to the signs or other symbolic materials.
  - The items cannot create a building maintenance problem or a fire or safety hazard.
- b) Persons with objects and symbolic materials such as signs must remain seated when displaying them and must not raise the items above shoulder level, obstruct the view or passage of other attendees, or otherwise disturb the business of the meeting.
- c) Objects that are deemed a threat to persons at the meeting or the facility infrastructure are not allowed. City staff is authorized to remove items and/or individuals from the Council Chambers and Committee Rooms if a threat exists or is perceived to exist. Prohibited items include, but are not limited to: firearms (including replicas and antiques), toy guns, explosive material, and ammunition; knives and other edged weapons; illegal drugs and drug paraphernalia; laser pointers, scissors, razors, scalpels, box cutting knives, and other cutting tools; letter openers, corkscrews, can openers with points, knitting needles, and hooks; hairspray, pepper spray, and aerosol containers; tools; glass containers; and large backpacks and suitcases that contain items unrelated to the meeting.

**CITY OF SAN JOSE CODE OF CONDUCT FOR PUBLIC MEETINGS IN  
THE COUNCIL CHAMBERS AND COMMITTEE ROOMS (CONT'D.)**

3. Addressing the Council, Committee, Board or Commission:

- a) Persons wishing to speak on an agenda item or during open forum are requested to complete a speaker card and submit the card to the City Clerk or other administrative staff at the meeting.
- b) Meeting attendees are usually given two (2) minutes to speak on any discussion item and/or during open forum; the time limit is in the discretion of the Chair of the meeting and may be limited when appropriate. Applicants and appellants in land use matters are usually given more time to speak.
- c) Speakers should discuss topics related to City business on the agenda.
- d) Speakers' comments should be addressed to the full body. Requests to engage the Mayor, Council Members, Board Members, Commissioners or Staff in conversation will not be honored. Abusive language is inappropriate.
- e) Speakers will not bring to the podium any items other than a prepared written statement, writing materials, or objects that have been inspected by security staff.
- f) If an individual wishes to submit written information, he or she may give it to the City Clerk or other administrative staff at the meeting.
- g) Speakers and any other members of the public will not approach the dais at any time without prior consent from the Chair of the meeting.

Failure to comply with this Code of Conduct which will disturb, disrupt or impede the orderly conduct of the meeting may result in removal from the meeting and/or possible arrest.